

## **MINUTES**

### **MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN CAROLYN SQUIRES**, on January 12, 2005  
at 3:00 P.M., in Room 335 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Carolyn Squires, Chairman (D)  
Sen. Joe Balyeat (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Mike Cooney (D)  
Sen. Jon Ellingson (D)  
Sen. Jeff Essmann (R)  
Sen. Steven Gallus (D)  
Sen. Rick Laible (R)  
Sen. Dave Lewis (R)  
Sen. Jim Shockley (R)  
Sen. Joseph (Joe) Tropila (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Dave Bohyer, Legislative Branch  
Claudia Johnson, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: SB 73, 1/4/2005; SB 81, 1/4/2005;  
SB 109, 1/4/2005; SB 89, 1/4/2005  
Executive Action: None.

**HEARING ON SB 73****Opening Statement by Sponsor:**

**SEN. JEFF MANGAN (D), SD 12**, opened the hearing on **SB 73**, Revise requirement for location of Law Enforcement Officers' Memorial. The bill requests that the Museum in Deer Lodge for the Law Enforcement Officers' Memorial to be moved to Great Falls.

**Proponents' Testimony:**

**Chaplain Terry Tyler, representing the Montana Law Enforcement Officers' Memorial**, distributed written testimony which he read. He informed the Committee that he was the originator, the longest serving guardian, overseer of the establishment, and the designer of the Memorial. He said that the 1991 Legislature passed HB 427, which gave state recognition, and the establishment of the Memorial. He stated that HB 427 was not intended to designate any other physical site or location other than the Montana Law Enforcement Museum whether it is located in Deer Lodge or Great Falls. He the location of the Museum at the "old prison, Deer Lodge", was only to serve as an "address", and nothing more. He said the Montana Law Enforcement Officer's Memorial was created, and exists exclusively for "honoring and remembrance of members of Montana's once forgotten law enforcement professionals who died in the line of duty while serving, protecting and assisting their communities". He informed the Committee that the Memorial is Montana's only officially recognized Memorial for our law enforcement. The Memorial remains to this day the sole legal property of the entire law enforcement community across the state of Montana through the Law Enforcement Museum, Incorporated. This bill clarifies that language. He asked the Committee for their support, and passage for the clarification of SB 73.

**EXHIBIT (sts08a01)**

**Jerry McGee, Chairman, Montana Law Enforcement Museum**, informed the Committee that he has been involved with the Museum since the late 1990's. He informed the Committee he was here to represent the Helena Police Department as a member of "our" honor guard. He is currently a member of the Museum Board representing the Helena Police Protective Association, and the Montana Police Protective Association. **Mr. McGee** informed the Committee he was the chairman of the Montana Law Enforcement Museum in 2004. He said the board has attempted to negotiate the location over the last several years, but the negotiations were not going anywhere. He said the Board opted to look elsewhere in Montana for a new site for the Montana Museum Memorial. He said the Board was approached by several representatives from Great Falls with a

proposal that the Board felt would benefit the Museum and Memorial. He said the Board is seeking to change the Montana Codes Annotated (MCA) in order to provide flexible language instead of being site specific.

**Glen Stinar, Master Patrol Officer, on the Board of Directors for the Museum, Great Falls Police Department,** distributed a handout showing the proposed site, and the architecture plan of the Museum for Great Falls. He stated that it is the Board's responsibility to make decisions regarding what is right and best for the Museum. The Museum is as much a business as it is a repository for items. **Mr. Stinar** said that the Board has discussed the move with the Attorney General's office (AG), who is also on the Board. The AG has informed the Board that the current language makes the Museum site-specific at Deer Lodge. He said the Board is seeking to amend that language so the Museum and Memorial can be moved to whatever location like Great Falls. He said there will be greater access to the Museum if it is located in a more accessible area. He said the Board has support from the Montana Police Protective Association, the Sheriffs Peace Officers Association, and all other law enforcement entities. He urged the Committee to pass SB 73.

#### **EXHIBIT (sts08a02)**

**Tim Shanks, Captain of the Great Falls Police Department, Member of the Chief of Police, and on the Board of the Museum Memorial,** stated his support of SB 73.

**Kathy McGowan, representing the Montana Sheriffs and Peace Officers Association,** wanted the Committee to know that the Association support SB 73. The directors of the Association voted unanimously at their last conference to support SB 73. She urged the Committee for a do pass motion.

#### **Opponents' Testimony:**

**Dick Bauman, President of Powell County Museum and Arts Foundation,** stated that he has held this position since 1986. He distributed written testimony stating the Foundation's opposition to this bill. He said that the Montana Law Enforcement Museum was formed as a Committee of the Powell County Museum and Arts Foundation in 1984. This Committee raised funds, accepted artifacts, and received donations using the Powell County Foundation as a non-profit corporate status. The Museum Memorial obtained its own non-profit status in 1988. He stated that the Foundation has a large investment at stake occupied by the Law Enforcement Museum Memorial. **Mr. Bauman** said that the Foundation has provided resources, funding for on-site staffing,

advertising, and logistics. He stated that Powell County Foundation has a legal and moral responsibility to the individuals and organizations that have loaned, donated artifacts, and provided support for the Museum. The Montana Law Enforcement Museum, Inc., through its present Board has refused to this date to provide any inventory of the artifacts and items before proceeding with plans to relocate and remove the Museum, the artifacts, and Memorial to the Powell County Museum and Arts Foundation. **Mr. Bauman** stated that "until these issues are resolved, Powell County Museum and Arts Foundation is opposed to amending section 22-3-701, MCA."

**EXHIBIT(sts08a03)**

**John O'Donnell, Current Director of the Old Prison Museum under the auspices of the Powell County Arts Foundation, and Former presiding President of Powell County**, stated that he is here before the Committee for Jim Haas, Curator for the Powell County Museum & Arts Foundation. He distributed Mr. Haas' testimony, which he read. **Mr. O'Donnell** urged the Committee to not pass SB 73.

**EXHIBIT(sts08a04)**

**Mike Mahoney, Concerned Citizen, Deer Lodge**, informed the Committee that he has had the privilege of speaking for the Powell County Arts Foundation. He stated that he wasn't aware that the Foundation wasn't being a good steward of the program. He would like to have the opportunity to address the concerns before moving the museum from Deer Lodge to Great Falls. He said that the Museum Memorial is a prestigious program to have in the community of Deer Lodge with its rich history. He feels that the environmental history of the old Territorial Prison is to honor the Law Enforcement Correctional Officers. He asked the Committee to consider the elements of the language proposed in the bill doesn't mean it is necessarily a part of the Community. **Mr. Mahoney** stated if the Museum is moved without the Community having the opportunity to address the problem there could be bigger issues to solve.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. LEWIS** asked **Dick Bauman** about a letter in the handout (see Exhibit 3), dated September of 2004, which appears that the Foundation had offered the Board of the Museum Memorial to come to some kind of an agreement, and did this happen. **Mr. Bauman** responded that in 1994, the old committee and the new committee

got together to look at various locations inside the prison wall. He stated that one location was ground level and handicap accessible. The Committee did review the location, but never got back to the Foundation if that location was acceptable or not.

**SEN. LEWIS** commented that it sounds like there had been some on-going discussion, and that the Foundation offered to sit down and mediate with the Museum Memorial Board to work on the issues.

**Mr. Bauman** said there isn't any indication that the Museum Memorial Board wants to sit down and resolve the situation.

**SEN. TROPILA** asked what is the problem that currently exists with the Museum. **Jerry McGuire** responded that survivors have stated that Deer Lodge is the worst place for the location of the Museum. He said that the survivors do not like going to a place where convicts have served their years, and then have it as a Memorial to honor their law enforcement officers. He said that the current location of the Museum is not an attractive place. The Museum is located inside the old territorial prison. They are not able display some of the artifacts, and are limited to what they can display, because they cannot get them inside the building. He said the site is not handicap accessible, and the building is old, run down, and falling apart. They are not able to renovate the building, and are limited to the repairs they can make, because it is a historical site. He discussed the \$5,000 in funds for the staff. He said the funds are matched by law enforcement organizations, and they were able to double that amount to \$10,000. **SEN. TROPILA** asked if the Museum is opened for regular hours or shut down at certain times. **Mr. McGuire** replied that the Museum hours are seasonable, and opened mainly during the summer.

**SEN. BALLYEAT** commented on the letter in exhibit 2 from Galen Hollenbaugh, Deputy Chief of Staff, Department of Justice. The letter states that Attorney General McGrath asked if the Museum can be a traveling display in Great Falls. The letter states "Because the Museum's board is charged with management and oversight of existing donated exhibits, the Museum's Board of Directors has within its discretion the authority to relocate exhibits of the Museum and Memorial to the traveling display in Great Falls". **SEN. BALLYEAT** wanted to know what is meant by "traveling". **SEN. MANGAN** responded that the AG office states that because of the language in the bill they are not able to permanently move the Memorial. He stated that "traveling" was not the correct word to use.

*{Tape: 1; Side: B}*

**SEN. BALLYEAT** wanted to know if there was any way that the two parties could compromise by having the Museum at Deer Lodge

during the summer months, and in Great Falls the rest of the time. **SEN. MANGAN** stated that could be a possibility, but it is his understanding that the whole issue is over exhibits, not location.

**SEN. LEWIS** asked **John O'Donnell, Powell County Museum & Arts Foundation**, if the Foundation is liable to the donors for the location of the building, handling of the disposition, and stewardship of the artifacts. **Mr. O'Donnell** replied that it correct. It is an issue of accountability for him. The language in the bill for the Law Enforcement Museum has been there since 1984-1985. He said that "folks" have brought artifacts, donated, and put resources into that facility from the early years of the Association up to the present. The Law Enforcement Museum was a Committee, and was an active part of the family called the Powell County Museum and Arts Foundation Museum. He stated that it is hard for folks looking at the artifacts and memorabilia of their fallen family members. Without proper documentation, and recognition of accountability of the artifacts it is difficult for the Foundation to handle the situation. **Mr. O'Donnell** stated that he would be very uncomfortable in transferring the artifacts back and forth without proper documentation between Deer Lodge and Great Falls.

**Closing by Sponsor:**

**SEN. MANGAN** closed informing the Committee that the AG's Office has stated that the artifacts belong to the Law Enforcement Museum Board. He informed the Committee about an article in the Montana Standard newspaper in 2001, that stated the issues regarding the Museum didn't come up until the lease came due, and the Law Enforcement Museum Board started talking about moving it to another location. He said this is when it became an issue for certain people. He said every law enforcement agency in the state supports this bill. The issue has turned into an territorial dispute, and has overshadowed the importance of what the Memorial is all about. He urged the Committee to pass SB 73.

**HEARING ON SB 81**

***{Tape: 1; Side: B; Approx. Time Counter: 4 - 6}***

**Opening Statement by Sponsor:**

**SEN. COREY STAPLETON (R), SD 27**, opened the hearing on **SB 81**, Revise National Guard Civil Relief Act. He informed the Committee that this bill is a continuation of a bill he carried in the last legislature. It reduces the number of days from 30-days to 10-days that a National Guard can be on active duty

before the conditions of this bill can be applied. The intent of the bill is to allow a person in the National Guard to devote their full time to military duty when called, and not have to worry about civil action suits that can enter their personal lives while on active duty.

***{Tape: 1; Side: B; Approx. Time Counter: 7 - 9.9}***

**Proponents' Testimony:**

**Major General Randy Mosley, Director of Department of Military Affairs, Adjutant General for the Montana National Guard,** apologized for his field dress stating that he just returned from Billings where he met with the unit from the Billings area and their families, because this week they are being mobilized for federal active duty. He stated that this bill addresses some of the military people who had civil action suits prior to their call up for state active duty, and are not protected under Title 10, Part 9, MCA. The 2003 Montana Legislature passed SB 75, which established Title 10, the minimum for active duty of 30 days. **Major General Mosley** stated that to protect our service men and women this bill changes that timeline from 30 days to 10 days. Military people are not given much notice to set their house in order when mobilized, and it leaves those families in dire situations. He said any military leave less than 30 days doesn't require the state to pay them any of the benefits. He the only intent of this bill is to change the definition of "qualifying period from 30 days to 10 days". This bill will give the military people when they are called to state active duty for a period of 30 days or less the same protection that the military personnel receive when called to federal active duty. He urged the Committee to pass SB 81.

**EXHIBIT(sts08a05)**

***{Tape: 1; Side: B; Approx. Time Counter: 10 - 14}***

**Roger Hagan, representing more than the 3,000 members of the Enlisted and Officer Association of National Guard of Montana,** distributed written testimony in support of SB 81. He urged the Committee for a do pass motion.

**EXHIBIT(sts08a06)**

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. LAIBLE** asked why isn't there a fiscal note? **SEN. STAPLETON** replied this legislation suspends or postpone any civil action suits that may occur when a military person is called to active duty. The bill allows a judge to postpone any court action for anyone that may be involved in a civil action suit.

**SEN. ELLINGSON** asked **Major General Mosley** what types of relief are postponed. He wanted to know if it is Civil Actions suits already in progress, or is it suits being contemplated. He also asked if it suspends a military person's obligation to pay a utility bill. **Major General Mosley** replied that the Civil Relief Act doesn't suspend or say anything. He said this bill allows the courts to consider civil action suits by providing guidance. Then the courts can determine the service member's ability to pay. This bill also allows the service member to petition the court for consideration of the hardship because of displacement or a vast reduction in income. This only allows the courts to consider action, and doesn't mandate anything. He said this bill is for Civil Action suits that are currently in place.

**Closing by Sponsor:**

**SEN. STAPLETON** closed stating this is a clarification bill, and urged the Committee for their support.

**HEARING ON SB 109**

*{Tape: 1; Side: B; Approx. Time Counter: 15 - 25}*

**Opening Statement by Sponsor:**

**SEN. JOHN COBB (R), SD 9**, opened the hearing on **SB 109**, Require state agencies to develop strategic plans, and performance measures. He stated that the bill will require all state agencies, including elected officials, state auditor, attorney general, and the legislative branch to incorporate performance measures. This bill eliminates existing performance measure requirements for the Department of Public Health and Human Services (DPHHS). He discussed each section of the bill. The bill allows Departments to set goals, how to set the goals, and make them legible. He distributed a handout that shows how the DPHHS program indicators are developed and how they achieve their goals. (see Exhibit 7). **SEN. COBB** informed the Committee that the Department of Agriculture has also set out a detailed graph how they will achieve and develop their goals. He said that the DPHHS has been given a directive in the past to develop these



indicators, and to continue to show how they will achieve their goals.

**EXHIBIT (sts08a07)**

**Proponents' Testimony:** None.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. BALLYEAT** asked why K-12 was left out of the bill. **SEN. COBB** stated that he doesn't need to look at every school and what they are doing. **SEN. BALLYEAT** asked about directing the University System of Montana to do this, and asked **SEN. COBB** if he is aware of the constitutional issue, and will there be any problem in achieving this. **SEN. COBB** responded there isn't any penalty with this bill. He said that the Universities set their own goals, and this bill only allows us to review their goals.

**SEN. ESSMANN** asked about a fiscal note. **SEN. COBB** said that most state agencies are currently doing the performance indicators, and have their budgets in place for this.

**Closing by Sponsor:**

**SEN. COBB** closed. He urged the Committee to pass this bill.

**HEARING ON SB 89**

***{Tape: 2; Side: A}***

**Opening Statement by Sponsor:**

**SEN. RICK LAIBLE (R), SD 44**, opened the hearing on **SB 89**, Allow support for nonpartisan candidates. He said because of state statute the bill doesn't allow non-partisan candidates to use the name of their political party in their advertisements. He said this bill will provide additional information for the voting public on the various candidates. He said the bill will allow the voters better access to different candidate information. He directed that Committee to page 1, line 24, which states that it doesn't prohibit political party endorsement for judicial candidates. **SEN. LAIBLE** said this bill allows information to get out so the voters will have some idea who is supporting the candidate, and what the candidate's value system is.

**Proponents' Testimony:** None.

**Opponents' Testimony:**

**Teresa Jacobs, Voter service Chair for the Missoula League of Women Voters (LWV), and Legislative Steering Committee Chair for the Montana League of Women Voters (LWV),** distributed written testimony in opposition of SB 89. Her statement reads "SB 89 would jeopardize the nonpartisan nature of our Montana judiciary, because it essentially invites big money to play a part in the election of our judges." She urged the Committee to not support SB 89.

**EXHIBIT**(sts08a08)

**Informational Testimony:** None.

***{Tape: 2; Side: A; Approx. Time Counter: 15.5 - 24.5}***

**Questions from Committee Members and Responses:**

**SEN. ESSMANN** asked if this applies to local non-partisan races in addition to the non-partisan justice of the peace and judge races. **SEN. LAIBLE** replied yes, all non-partisan races.

**SEN. COONEY** asked if the bill could be more forthright by stating that a person could run on a partisan label if a person is running for judicial office. **SEN. LAIBLE** responded no. That is why this bill is before this Committee. He doesn't want it to be politicized with "R's, I's, D's, and C's" after the name of the judges. He said this bill forces candidates stand on their value system. All this bill does is to get the information out to the working public who are working two and three jobs in order to keep a roof over their head, and don't have the time to figure the what every candidate is about. This bill will provide information and guidelines so people can make the best judgement as to whom is the best qualified candidate.

***{Tape: 2; Side: B}***

**Closing by Sponsor:**

**SEN. LAIBLE** closed. He said he is surprised by the League of Women Voters discouraging more information to come out for the candidates. He asked the Committee for a do pass motion.

**SEN. COBB** informed the Committee that a fiscal note being printed for SB 109.

**ADJOURNMENT**

Adjournment: 4:30 P.M.

---

SEN. CAROLYN SQUIRES, Chairman

---

CLAUDIA JOHNSON, Secretary

CS/cj

Additional Exhibits:

**EXHIBIT ([sts08aad0.TIF](#))**